

به نام خدا

Psychiatric malpractice

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متخصص روان پزشکی

دانشیار پژوهشی سازمان پزشکی قانونی

When most people think about medical malpractice, they think of mistakes in the operating room or cases of misdiagnosis. However, psychiatrists can also make harmful mistakes or neglect their patients' needs. What are some examples of psychiatric medical malpractice?

When a psychiatrist :

- * fails to obtain proper information.
- * fails to properly treat mental disorders
- * does not appropriately assess suicide risk, self-harm risk, or violence risk.
- * does not obtained informed consent.

When a psychiatrist :

- * breaches confidentiality.
- * misdiagnoses the condition
- * makes a harmful medication mistake.
- * does not properly supervise a patient.
- * abandons a patient during an emergency or during treatment.

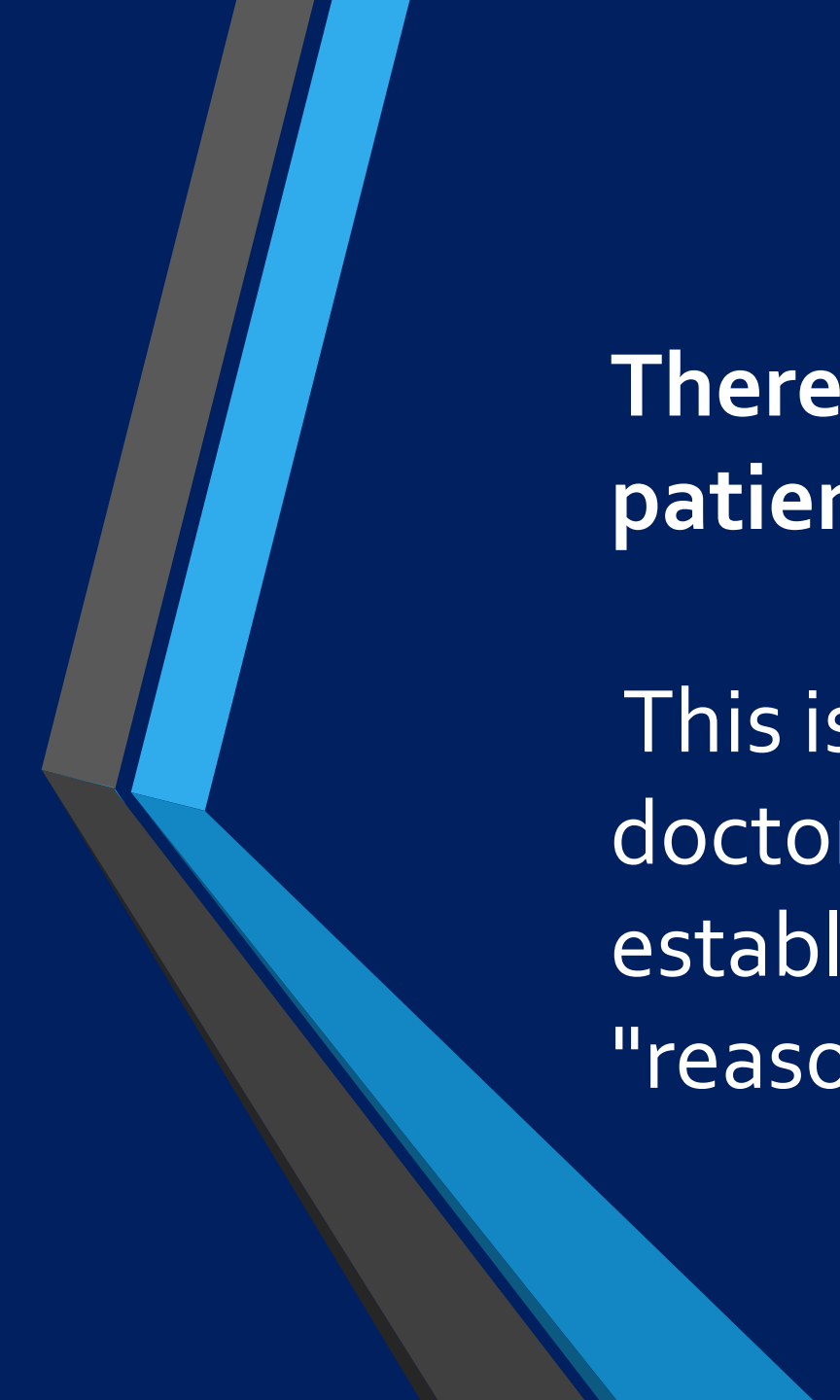
...without having
...having an unpleasant

malpractice

unethical negligent pro
professional conduct

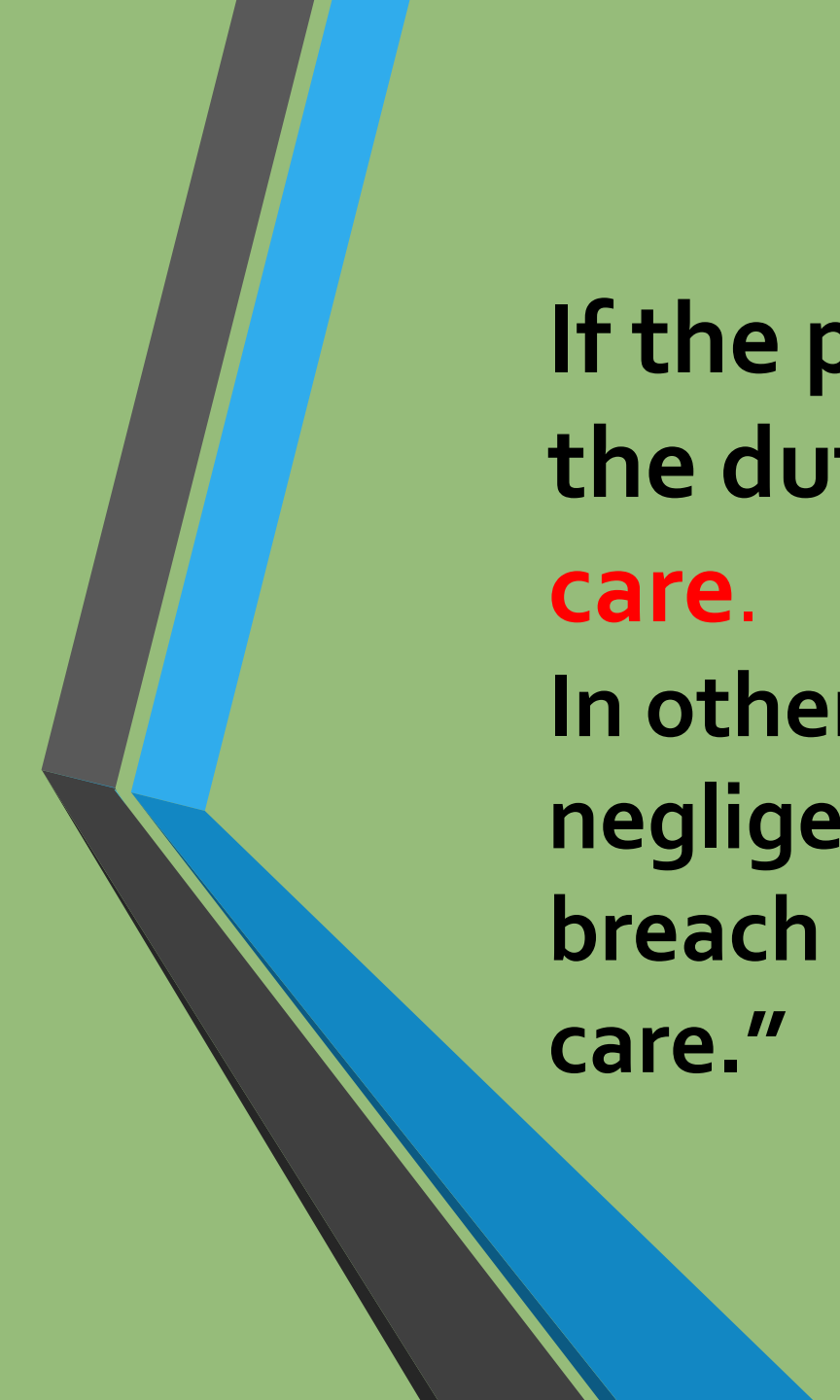
Dereliction of a Duty Directly

**led to
Damage**



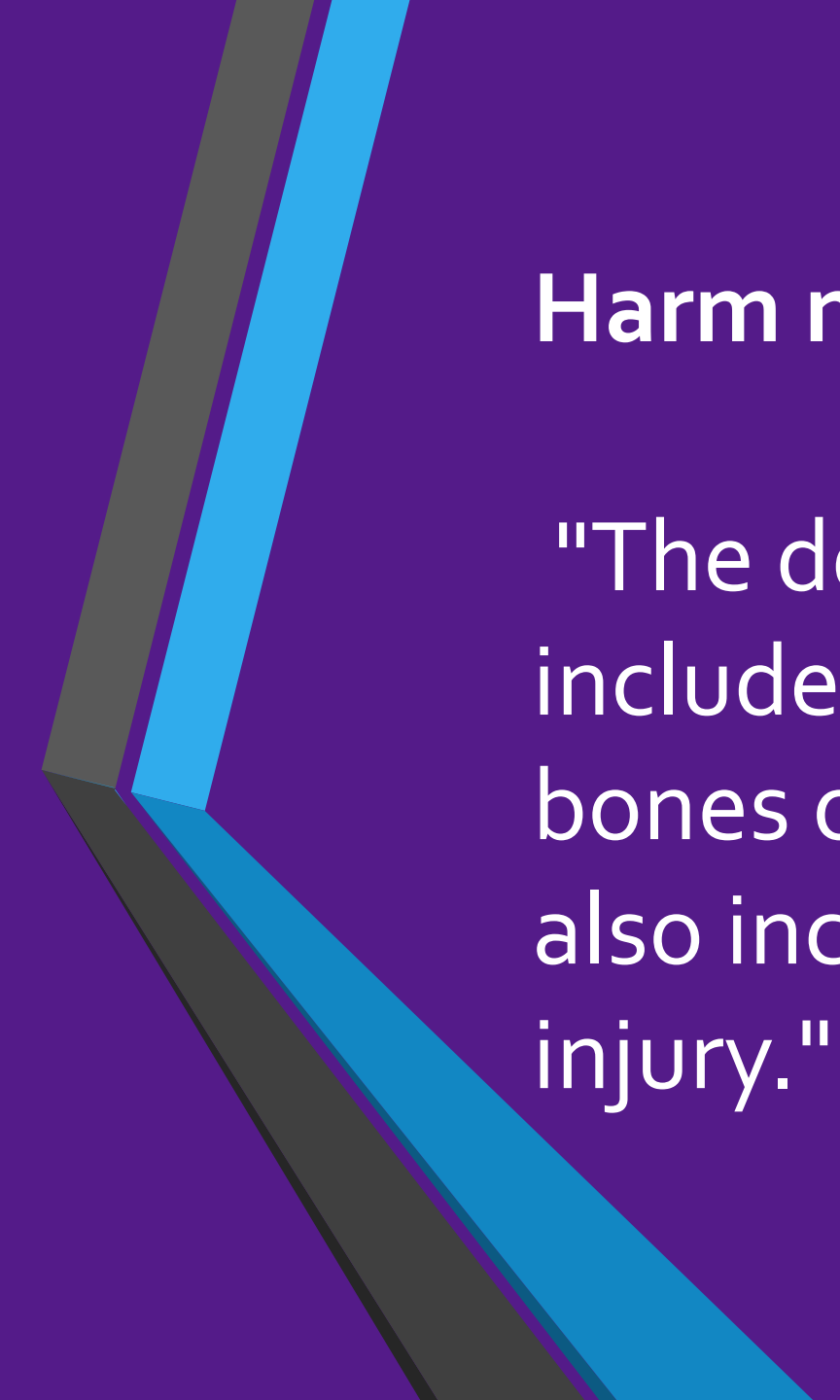
There must be a doctor-patient relationship.

This is important because the doctor-patient relationship establishes the duty of "reasonable care"



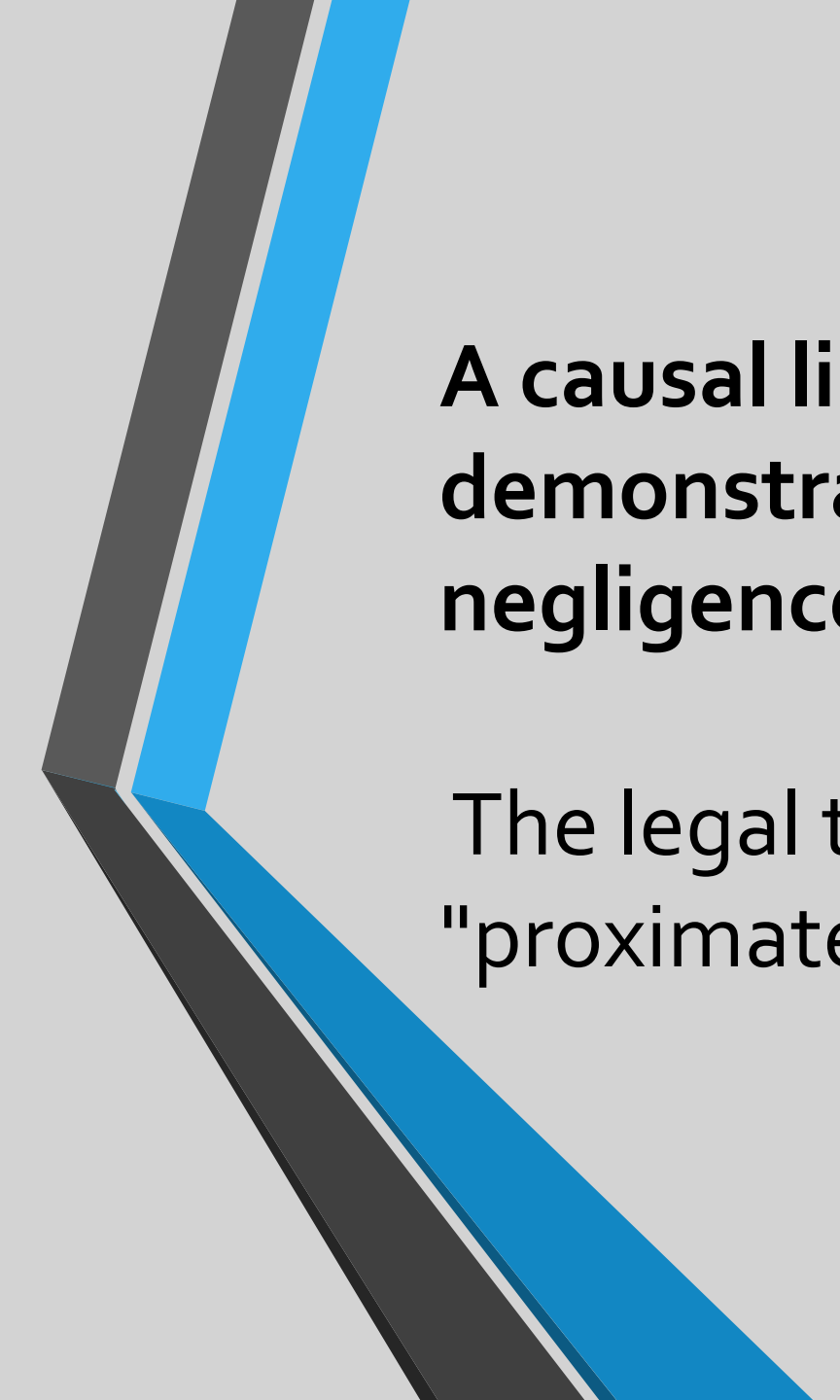
If the psychiatrist breaches
the duty of **reasonable**
care.

In other words, there is
negligence if there has been a
breach of duty of “reasonable
care.”



Harm must have occurred.

"The definition of harm could include injury such as broken bones or memory loss, but also includes emotional injury."



A causal link must be demonstrated between the negligence and the injury.

The legal term for this is "proximate cause."

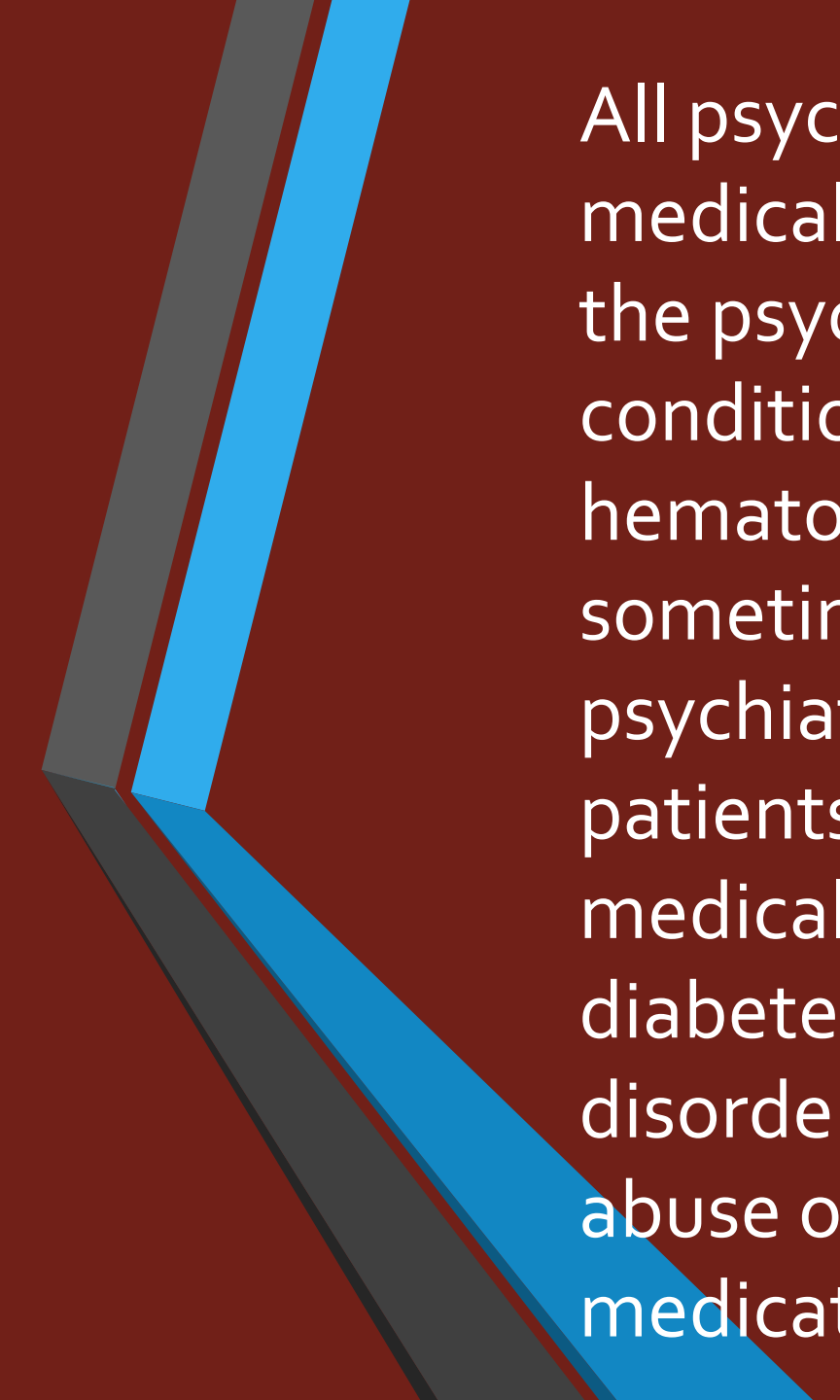
Often this element can be the most difficult to establish. There may be cases in which there is duty, and the doctor breaches the duty and there is harm but it is difficult to prove the harm was caused by the breach of duty because there may have been other intervening factors that could also account for the harm. For instance, in cases involving suicide it can be difficult to prove “proximate cause”.

پیچیده ترین وجه قصور پزشکی تشخیص علت منجر
به آسیب است (Direct cause)

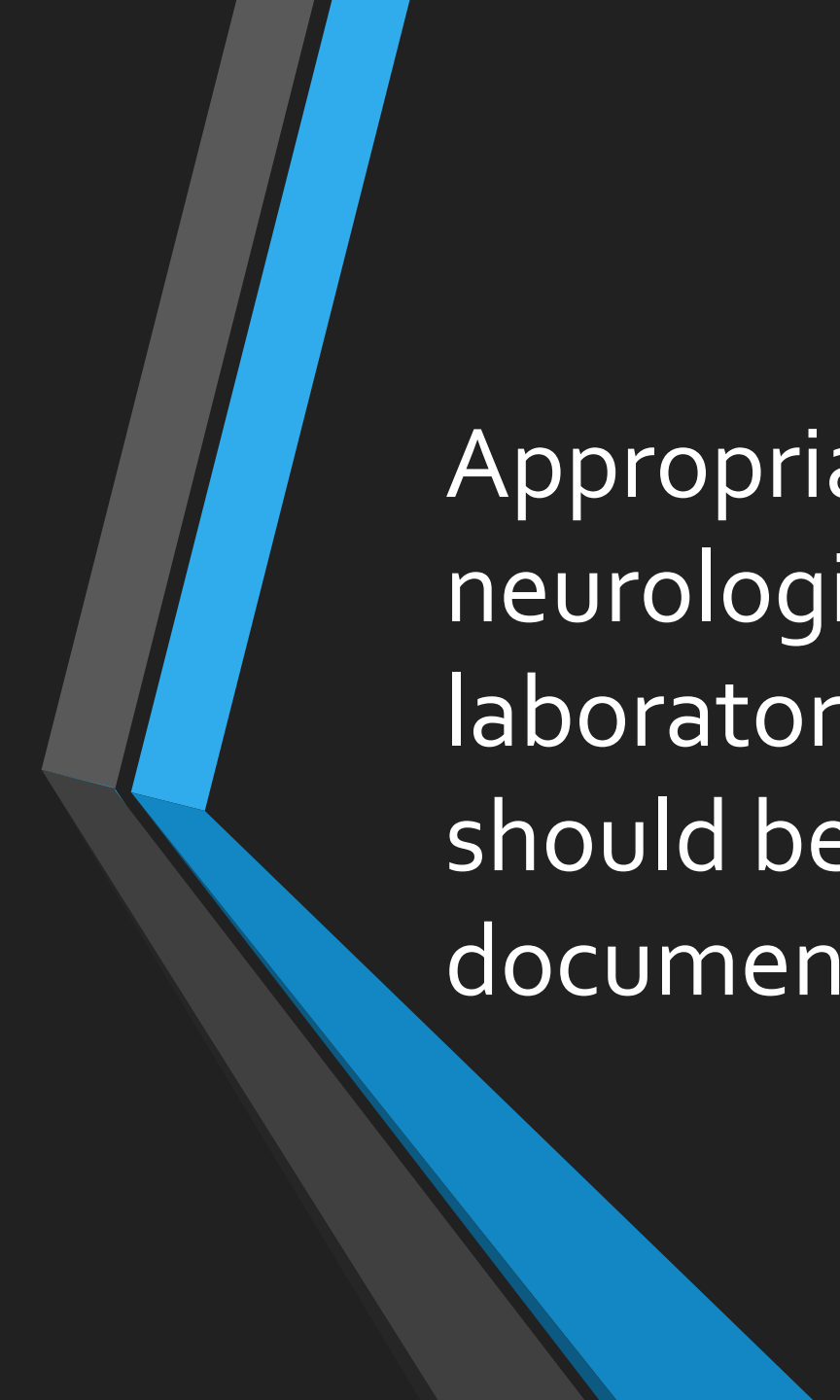
- روان پزشکی که یک بیمار با قصد خودکشی را بستری می کند
- بیماری که در حین E.C.T. دچار وقفه تنفسی می شود
- بیماری که با داروهای تجویز شده اقدام به خودکشی می کند

اصل بداهت وجود (*Res ipsa loquitur*)

- بروز آسیب وارده در صورت عدم اهمال نادر است
- کنترل کامل ابزارهای آسیب رسان در اختیار پزشک بوده است
- شاکی در ایجاد نتایج نامطلوب مشارکتی نداشته باشد
- اطلاعاتی که موید حقیقت موضوع است فقط در دسترس پزشک باشد



All psychiatric patients should be medically evaluated, in addition to the psychiatric evaluation. Medical conditions, such as subdural hematoma, encephalitis, and AIDS sometimes present primarily psychiatric symptoms. Psychiatric patients may have associated medical problems, including diabetes and other metabolic disorders, hormonal imbalance and abuse or failure to conform to their medications.



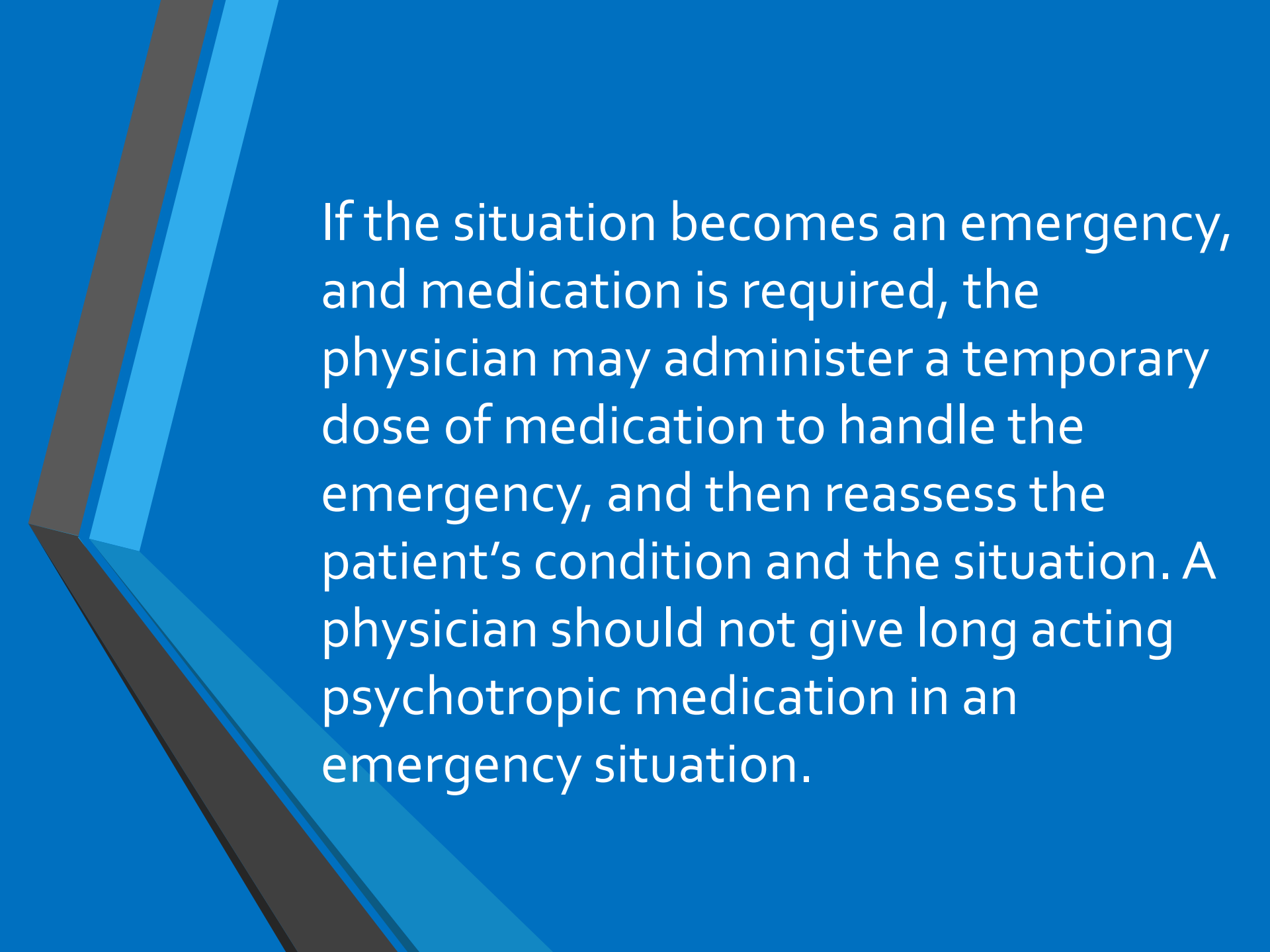
Appropriate psychiatric,
neurologic, neuropsychological,
laboratory and radiologic testing
should be performed and
documented.

Careful and scrupulous documentation is indicated in the care of all psychiatric patients, but the psychiatric record should include only clinical data, and never legal opinions or derogatory comments. Good record keeping is the strongest defense against a lawsuit, or in support of a contention.

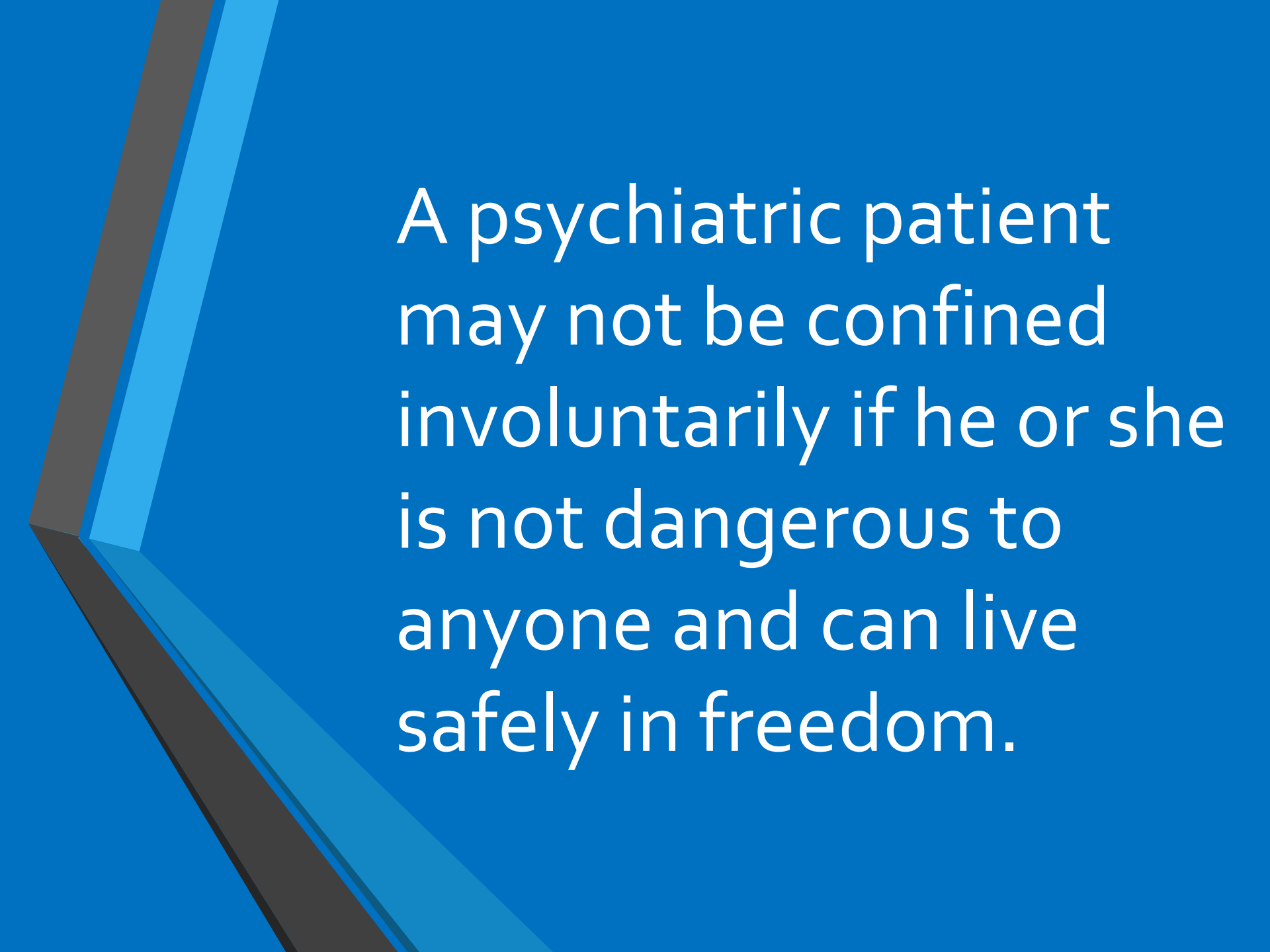
It is permissible for a psychiatrist to confine a patient involuntarily after a proper evaluation determines that a mental disorder exists, without being liable for malpractice, under the following circumstances:

- a. When the patient actually injures himself or others;
- b. When the patient can be expected in the near future to injure himself or others;
- c. When the patient has engaged in recent overt acts or made significant recent threats that substantially support those expectations; and
- d. When the patient is unable to attend to his or her basic needs (gravely disabled).

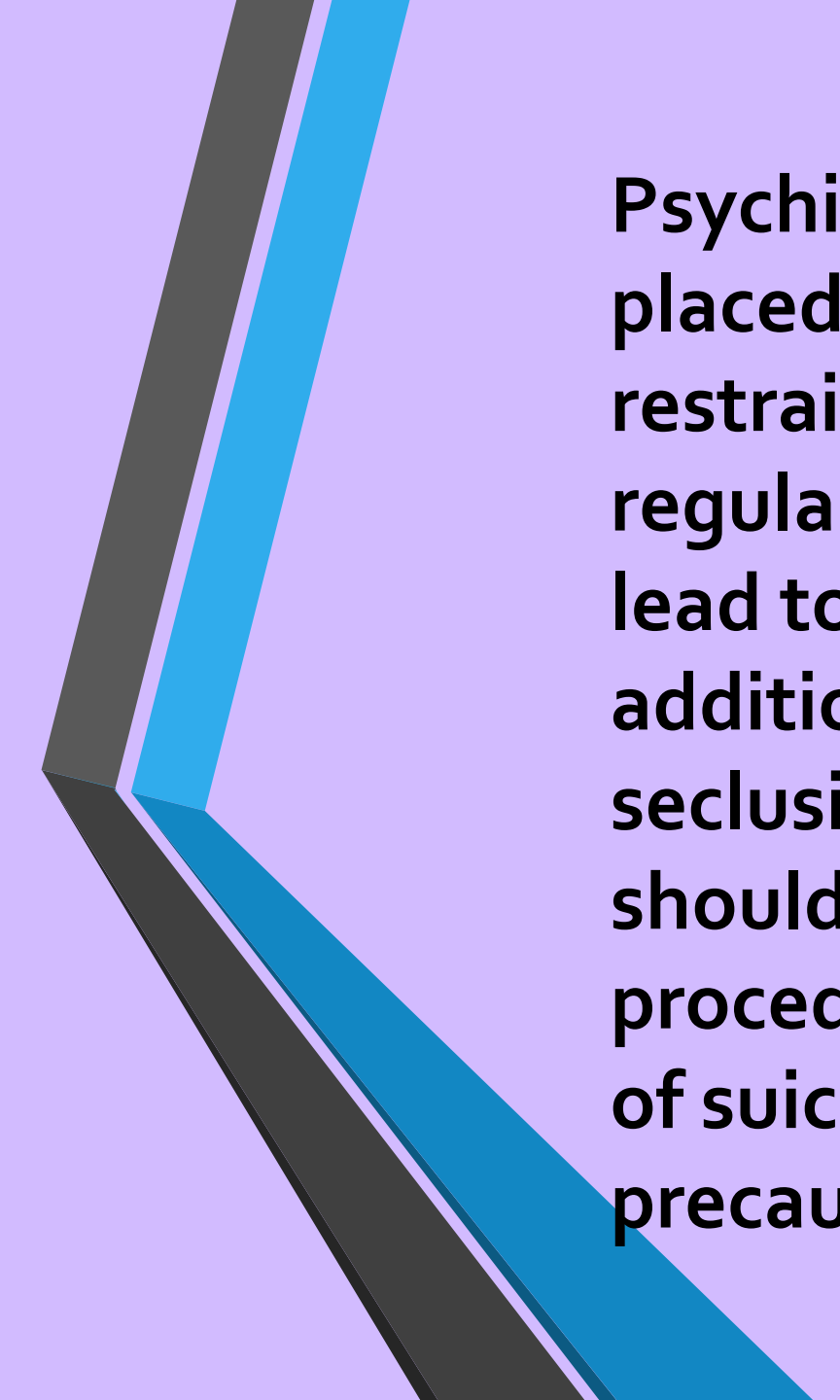
Mere acts of destruction of property by the mentally ill patient are usually insufficient to justify involuntary commitment.



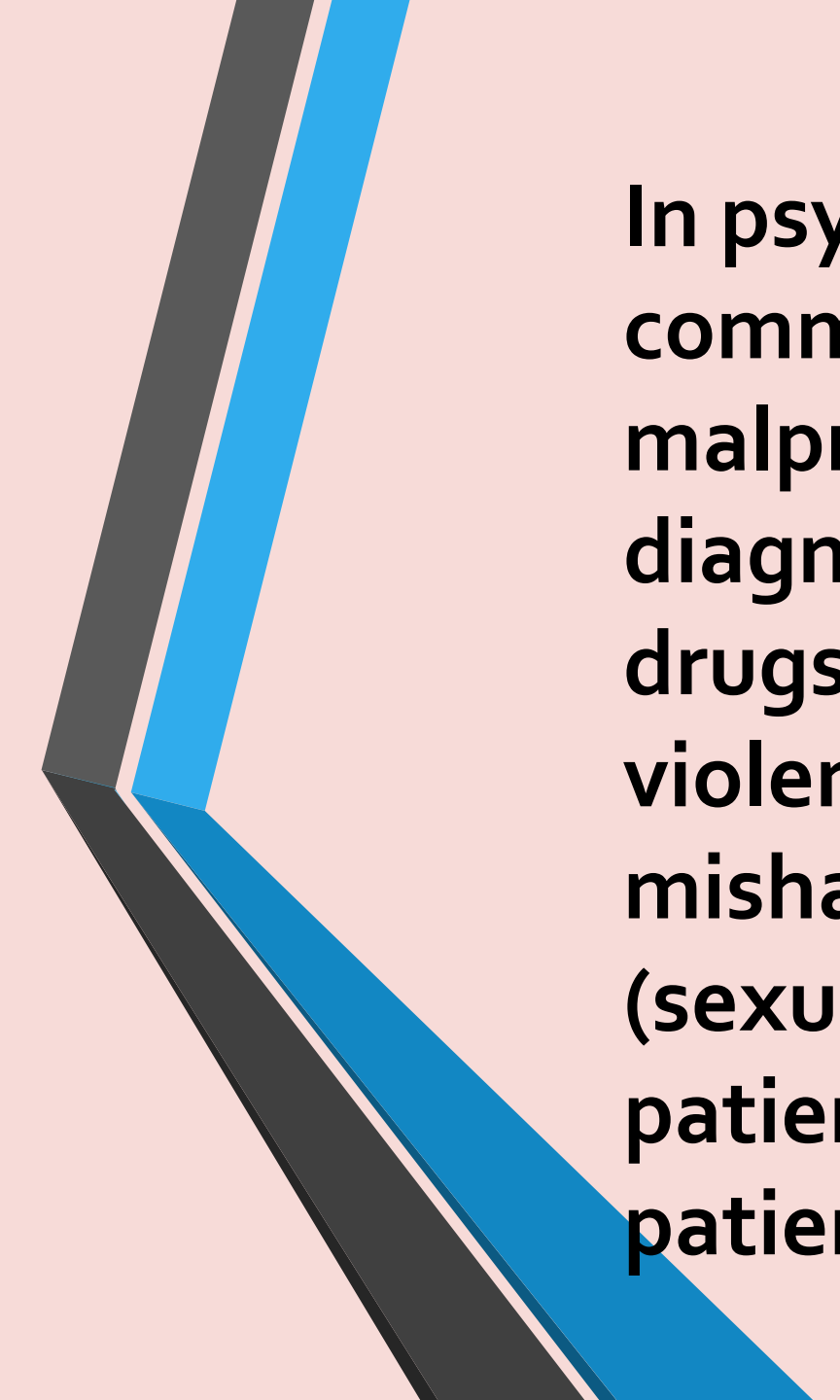
If the situation becomes an emergency, and medication is required, the physician may administer a temporary dose of medication to handle the emergency, and then reassess the patient's condition and the situation. A physician should not give long acting psychotropic medication in an emergency situation.



A psychiatric patient
may not be confined
involuntarily if he or she
is not dangerous to
anyone and can live
safely in freedom.



Psychiatric patients who are placed in seclusion and/or restraint should be observed regularly. Failure to do so could lead to a malpractice lawsuit. In addition to regulations regarding seclusion and restraint, hospitals should have specific policies and procedures regarding observation of suicidal patients and elopement precautions.



In psychiatry, the most common reasons for malpractice include improper diagnosis and treatment, drugs side effects, suicide, violence to others, mishandling the transference (sexual exploitation of the patient), and violation of the patient's rights.

STANDARD:

The issue of reasonableness, whether involving the diagnosis, supervision, or treatment of a patient, is usually measured in terms of the accepted standards of the profession. Expert testimony is needed to establish or disprove that the defendant psychiatrist failed to exercise the reasonable care other psychiatrists would have used in that or similar circumstances.



Educating psychiatrists
about the causes of
malpractice claims, can help
them improve patient care
and reduce malpractice
claims.

برخی دعاوی مطرح شده در کمیسیون های رسیدگی به شکایات قصور روان پزشکان

گواهی نادرست

عوارض درمان دارویی (اختلال حافظه، اختلال بویایی، NMS، مرگ در اثر لکوپنی، مرگ آنی و...)

عوارض الکتروشوک (منجر به فوت، عوارض جسمانی)

بستری اجباری

غفلت از تشخیص عارضه کشنده (آنسفالیت)

عدم مراقبت درست (بستری نکردن بیمار تهدید به خودکشی، سانحه منجر به مرگ بعد از خروج از مرکز، خودکشی در بیمارستان و ...)

موارد پر خطر برای تبدیل به دادخواست قصور علیه روانپزشکان

- تشخیص نادرست
- اهمال در درمان های بیولوژیک
- اهمال در روان درمانی (recovered memory)
- اهمال در پیشگیری از موارد آسیب به خود
- اهمال در پیشگیری از موارد آسیب به دیگران (قاعده تاراسوف)
- سهل انگاری در نظارت
- ترک و واگذاری بیمار
- رابطه جنسی با بیمار
- افشاء اسرار بیمار

financial relations

Patient attracted to his/her doctor

gifts

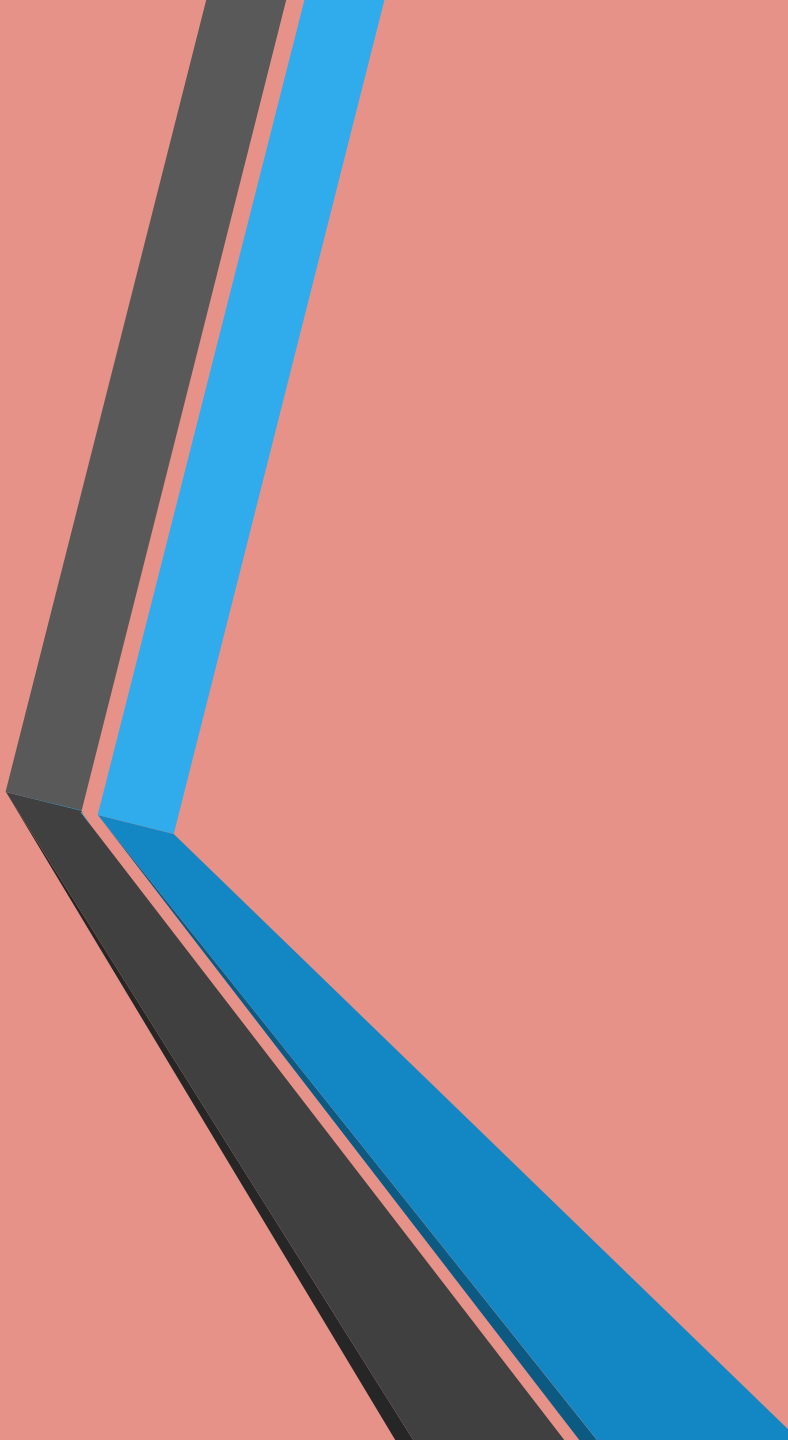
falling in love

doctor patient dating

sexualization of the doctor- patient relationship

چند نکته برای پیشگیری از بروز قصور در حرفه روانپزشکی

- روانپزشکان فقط خدماتی را که در آن تخصص دارند ارائه نمایند،
- رفتار محترمانه ای با بیماران خود و همراهان او داشته باشند،
- اطلاعات مربوط به تشخیص و درمان و اقدامات انجام شده را به دقت در پرونده پزشکی بیماران درج نمایند،
- نوع و ماهیت اعمال طبی یا جراحی که قرار است صورت گیرد به طور واضح برای بیمار(یا ولی او) توضیح داده شود،
- در حفظ اسرار بیماران تلاش کنند و نیز در حفظ مدارک،
- در موارد بستری اجباری اقدامات قانونی را پیش بینی نمایند،
- در موارد دشوار از مساعدت و نظر مشورتی یک همکار دیگر استفاده کنند....



متشکرم

دکتر سید مهدی صابری
متخصص روان پزشکی
عضو هیئت علمی مرکز تحقیقات پزشکی قانونی